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Type of paper transmitted: Letter Regarding Error in Patent Term Adjustment

Applicant's Name: Brian W. Ward et al.

Serial No.: 09/610,935 Examiner: B. Sisson

Filing Date: 07/06/2000 Art Unit: 1634 Confirmation No.: 5148

Application Title: TRACER REAGENTS THAT ENHANCE REACTION-PRODUCT ANALYSIS

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SGM 6934.1
SIG0392
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Brian W. Ward et al.
Serial No. 09/610,935
Filed July 6, 2000
Confirmation No. 5148
For TRACER REAGENTS THAT ENHANCE REACTION-PRODUCT ANALYSIS
Examiner B. Sisson

Art Unit 1634

October 11, 2005

LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT

TO THE COMMISSIONER FOR PATENTS,
SIR:

Applicants received a copy of the patent issued on September 13, 2005, in the above-identified application. The issued patent indicates a Patent Term Adjustment of sixty-one (61) days. Applicants hereby notify the Office, pursuant to Comment 43 of the rules listed in Federal Register Vol. 65, NO. 181 at page 56387 (Sept. 18, 2000), that this term adjustment is thought to be longer than appropriate. Applicants believe that the appropriate patent term adjustment is zero (0) days, as more fully discussed below.

On November 19, 2004, a Notice of Allowance and Fee(s) Due was mailed by the Office. The Notice of Allowance indicated a patent term adjustment of zero (0) days. Applicants timely submitted the payment of the issue fee on February 16, 2005. In response thereto, the Office mailed an Issue Notification on August 16, 2005, which indicated a patent term adjustment of sixty-one (61) days (an asserted one-hundred forty-one (141) days of previous PTO delay plus eighty-nine (89) days of PTO delay in issuing the patent, reduced by one-hundred sixty-nine (169) days of applicant delay). Applicants believe the patent term adjustment of sixty-one (61) days to be in error.

The above-referenced application was filed on July 6, 2000. The first Office action was mailed April 4, 2001, which is within fourteen (14) months after the filing of the application. The response to the first Office action was filed August 1, 2001, which is twenty-eight (28) days after the end of the three (3) month shortened statutory period for response. The second Office action (a final Office action) was mailed November 1, 2001, which is within the four (4) month period

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for reply by the Office. A response to the final Office action, namely, a Notice of Appeal, was filed March 1, 2002, which is twenty-eight (28 days) days after the three (3) month shortened statutory period for response. A Request for Continued Examination was filed August 1, 2002, which is within the allowed six month period for filing a brief subsequent to the filing of a Notice of Appeal. The third Office action was mailed on November 11, 2002, which is within the four (4) month period for reply by the Office. The response to the third Office action was filed on February 11, 2003, which is sixty-two (62) days after the end of the three (3) month shortened statutory period for response. A fourth Office action (a final Office action) was mailed on July 1, 2003, which is twenty (20) days after the end of the four (4) month period for reply by the Office. A telephone interview was conducted on September 30, 2003, which is within the three (3) month shortened statutory period for response. A fifth Office action (a supplemental final Office action) was mailed October 22, 2003, which is within the four (4) month period for reply by the Office. A response to the supplemental final Office action, namely, a Notice of Appeal, was filed February 23, 2004, which is thirty-two (32 days) days after the end of the three (3) month shortened statutory period for response. A Request for Continued Examination was filed May 24, 2004, which is within the allowed six month period for filing a brief subsequent to the filing of a Notice of Appeal. The sixth Office action was mailed August 11, 2004, which is within the four (4) month period for reply by the Office. A response to the sixth Office action was filed November 10, 2004, which is within the three (3) month shortened statutory period for response. A Notice of Allowance was mailed November 19, 2004, which is within the four (4) month period for reply by the Office. The Issue Fee was paid February 16, 2005, which is within the three (3) month period for payment of an Issue Fee. The patent issued September 13, 2005, which is eighty-nine (89) days after the end of the four (4) month period for issuance of a patent subsequent to payment of the Issue Fee.

Based upon the above-recited facts, the delay on the part of the Office was one-hundred nine (109) days. The delay on the part of

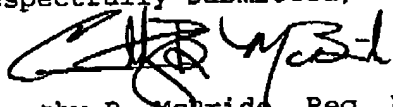
SGM 6934.1
SIG0392
PATENT

Applicants was one-hundred fifty (150) days. The result is a patent term adjustment of 0 days, or 61 days less than the patent term adjustment indicated in both the Issue Notification and the Patent.

Accordingly, it is believed that the patent term adjustment should be reduced from 61 days to 0 days.

Applicants believe that no fee is due for the filing of this letter.

Respectfully submitted,



Timothy B. McBride, Reg. No. 47,781
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